

## Message Text

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ACTION L-03

INFO OCT-01 EUR-12 IO-13 ISO-00 SSO-00 NSCE-00 INRE-00

USIE-00 SS-15 NSC-05 CIAE-00 INR-07 NSAE-00 AF-08

ARA-06 EA-07 NEA-10 AID-05 EB-07 TRSE-00 COME-00 SP-02

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FM USMISSION GENEVA

TO SECSTATE WASHDC IMMEDIATE 1444

INFO USMISSION EC BRUSSELS

USMISSION OECD PARIS

USMISSION USUN NEW YORK

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E.O. 11652: N/A

TAGS: ECOSOC EGEN

SUBJECT: 61ST ECOSOC: US PROPOSAL ON ILLICIT PAYMENTS

REF: A. GENEVA 5931 B. GENEVA 5929 C. STATE 183522

1. ON JULY 26 USDEL CONTINUED ITS LOBBYING EFFORTS ON BEHALF OF OUR PROPOSAL ON ILLICIT PAYMENTS. AS INDICATED REFTEL A, MYERSON MET WITH AMBASSADOR DA COSTA (BRAZIL) TO COMPARE NOTES AND PARTICULARLY TO URGE THAT BRAZILIAN DEL PARTICIPATE IN AN INFORMAL DRAFTING EXERCISE LATER IN DAY. IN ADDITION, WE INFORMALLY DISTRIBUTED TO INTERESTED DELS THE REVISED DRAFT AS CONTAINED IN REFTELS B AND C. INITIAL REACTIONS BY VARIOUS G-77 DELS TO REVISED TEXT WERE IN GENERAL FAVORABLE, AND THEY RECOGNIZED THAT WE ARE ATTEMPTING TO MEET SOME OF THE SPECIFIC PROBLEMS RAISED BY THEM. HOWEVER, BASED ON PRIOR CONVERSATIONS AS WELL AS REPORTS FROM CAPITALS, IT WAS CLEAR THAT EVEN THIS REVISED US RESOLUTION -- AS IT STOOD -- COULD NOT CARRY THE DAY.

ACCORDINGLY, USDEL SUBSEQUENTLY HAD AN INFORMAL AND LIMITED OFFICIAL USE

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AD REFERENDUM SESSION WITH DELEGATES OF IRAN, EGYPT AND BRAZIL TO

DISCUSS POSSIBLE ADDITIONAL CHANGES. THE REFERENDUM TEXT COMING OUT OF THESE DISCUSSIONS IS TRANSMITTED BELOW. BRAZIL HAS SUBSEQUENTLY TOLD US AFTER A PRELIMINARY CHECK WITH GOB THAT WITH THESE CHANGES IT COULD PROBABLY SUPPORT THE RESOLUTION.

3. MAJOR CHANGES IN THE TEXT AS FOLLOWS:

(A) TITLE NEUTRALIZED TO READ SIMPLY "ILLICIT PAYMENTS IN INTERNATIONAL COMMERCIAL TRANSACTIONS" BUT FULL WORDING OF PROPOSED AGREEMENT MAINTAINED IN THE BODY OF THE RESOLUTION.

(B) MANDATE SET FORTH IN OP PARA 1(A) NOW CALLS ON "AD HOC" COMMITTEE TO CONDUCT AN EXAMINATION OF THE PROBLEMS OF ILLICIT PAYMENTS AND TO STUDY CONTENTS AND SCOPE OF A DRAFT AGREEMENT WITH A VIEW TO ELABORATING AN AGREEMENT BY THE MIDDLE OF 1977.

(C) TITLE OF PROPOSED AGREEMENT NOW CONTAINS THE PHRASE "COMMERCIAL TRANSACTIONS" INSTEAD OF "TRADE AND INVESTMENT."

(D) THE PHRASE "IF POSSIBLE" INSERTED IN OP PARA 3 (B) WITH REFERENCE TO FORWARDING OF FINAL TEXT OF AGREEMENT TO GA.

4. OBVIOUSLY, A NUMBER OF KEY DELS REMAIN TO BE HEARD FROM. IRAN PLANS TO RAISE OUR PROPOSAL AT A MEETING OF THE G-77 SCHEDULED FOR 9:30 A.M. ON JULY 27. WE WILL NEED TO KNOW BY THEN WHETHER THE AD REFERENDUM DRAFT IS ACCEPTABLE TO THE DEPT. PLEASE ADVISE SOONEST.

5. THE TNC ITEM (REPORT OF THE TNC COMMISSION) WILL PROBABLY COME UP IN THE ECONOMIC COMMITTEE ON JULY 26. WE WILL TRY TO DELAY UNTIL SECOND HALF OF WEEK THE DEADLINE FOR FORMAL TABLING OF DRAFT RESOLUTIONS.

6. FOLLOWING IS AD REFERENDUM TEXT:

BEGIN TEXT

ILLICIT PAYMENTS IN INTERNATIONAL  
COMMERCIAL TRANSACTIONS

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RECALLING GENERAL ASSEMBLY RESOLUTION 3514 (XXX) WHICH, INTER ALIA, CONDEMNED ALL CORRUPT PRACTICES, INCLUDING BRIBERY, BY TRANSNATIONAL AND OTHER CORPORATIONS, THEIR INTERMEDIARIES AND OTHERS INVOLVED, IN VIOLATION OF THE LAWS AND REGULATIONS OF HOST COUNTRIES, AND CALLED UPON ALL GOVERNMENTS TO EXCHANGE INFORMATION AND FOR HOME GOVERNMENTS TO COOPERATE WITH HOST GOVERNMENTS TO PREVENT CORRUPT PRACTICES, INCLUDING BRIBERY;

NOTING THE DECISION OF THE COMMISSION ON TRANSNATIONAL CORPORATIONS AT ITS 2ND SESSION TO FORWARD TO THE ECONOMIC AND SOCIAL COUNCIL A PROPOSAL FOR AN INTERNATIONAL AGREEMENT TO ESTABLISH CERTAIN STANDARDS AND PROCEDURES RELATIVE TO INTERNATIONAL TRADE AND INVESTMENT TRANSACTIONS WITH GOVERNMENTS WITH THE AIM OF ELIMINATING CORRUPT PRACTICES IN THESE AREAS.

NOTING FURTHER THE COMMISSION'S RECOMMENDATION THAT THE COUNCIL CONSIDER THE MATTER OF CORRUPT PRACTICES ON A PRIORITY BASIS AND TAKE APPROPRIATE ACTION AT ITS SIXTY-FIRST SESSION,

AFFIRMING THAT CONSIDERATION AND ACTION BY THE COUNCIL OF THE MATTER OF CORRUPT PRACTICES SHOULD IN NO WAY INTERFERE WITH OR DELAY PRIORITY ACTION BY THE COMMISSION ON TRANSNATIONAL CORPORATIONS IN DEVELOPING A CODE OF CONDUCT,

1. DECIDES

(A) TO ESTABLISH A HIGH LEVEL INTERGOVERNMENTAL AD HOC COMMITTEE OF EXPERTS TO CONDUCT AND EXAMINATION OF THE PROBLEM OF ILLICIT PAYMENTS AND TO STUDY THE CONTENTS AND SCOPE OF A DRAFT AGREEMENT ON MEASURES TO COMBAT ILLICIT PAYMENTS TO GOVERNMENT OFFICIALS IN CONNECTION WITH INTERNATIONAL COMMERCIAL TRANSACTIONS WITH A VIEW TO ELABORATING BY THE MIDDLE OF 1977 A PRELIMINARY DRAFT OF SUCH AN AGREEMENT.

(B) THAT THE AD HOC COMMITTEE SHALL BE COMPOSED OF 18 MEMBERS ELECTED BY THE ECONOMIC AND SOCIAL COUNCIL ON A BROAD AND REPRESENTATIVE GEOGRAPHICAL BASIS,

(C) THAT THE AD HOC COMMITTEE SHALL MEET IN 1976 AND AS NECESSARY IN 1977, THE SESSIONS TO BE OF SUFFICIENT DURATION TO PERMIT COMPLETION OF ITS TASK,

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(D) THAT THE CENTRE ON TRANSNATIONAL CORPORATIONS SHALL PROVIDE THE AD HOC COMMITTEE WITH SUCH SUPPORT AND ASSISTANCE AS THE AD HOC COMMITTEE MAY REQUIRE TO COMPLETE ITS TASK.

2. REQUESTS OTHER UNITED NATIONS AGENCIES AND BODIES, ESPECIALLY UNCITRAL, TO RENDER SUCH ASSISTANCE TO THE AD HOC COMMITTEE AS IT MAY REQUEST.

3. DECIDES FURTHER

(A) THAT THE AD HOC COMMITTEE SHOULD SUBMIT A REPORT TO THE 63RD SESSION OF THE COUNCIL CONTAINING THE RESULTS OF THE AD HOC COMMITTEE'S WORK PURSUANT TO PARAGRAPH 1 ABOVE.

(B) TO REVIEW THE AFORMENTIONED REPORT AT ITS 63RD SESSION  
AND TO FORWARD IF POSSIBLE, A FINAL TEXT OF THE  
AGREEMENT TO THE GENERAL ASSEMBLY WITH THE RECOMMENDATION  
THAT THE ASSEMBLY AT ITS 32ND SESSION TAKE ALL DECISIONS  
AND ACTIONS NECESSARY FOR THE OPENING FOR SIGNATURE OF  
A CONVENTION ON MEASURES TO COMBAT ILLICIT PAYMENTS TO  
GOVERNMENT OFFICIALS IN CONNECTION WITH INTERNATIONAL  
COMMERCIAL TRANSACTIONS.

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## Message Attributes

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